

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6497

BILL NUMBER: HB 1207

NOTE PREPARED: Jan 27, 2004

BILL AMENDED: Jan 26, 2004

SUBJECT: Alcoholic Beverage Matters.

FIRST AUTHOR: Rep. Kuzman

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill contains the following provisions:

- 1) It allows the ATC to issue a beer wholesaler's permit to a corporation, limited partnership, or limited liability company if at least 60% of the common stock, partnership interests, or membership interests are owned by persons who: (1) are not residents of Indiana at the time of the permit application; and (2) are residents before final approval by the ATC of the permit transfer or issuance.
- 2) It allows the ATC to issue a beer or wine wholesaler's permit to a corporation, limited liability company, or limited partnership if no stockholder or person having an interest is a resident of the county in which the licensed premises is to be situated.
- 3) It allows the holder of a retailer's permit to have an interest in a brewer's permit of a brewery that manufactures not more than 20,000 barrels in a calendar year.
- 4) The bill allows a microbrewer to sell beer by the glass at a brewery.
- 5) It provides that the holder of a beer, wine, and liquor retailer permit may allow the self-service of alcoholic beverages in a suite of a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a paved auto racetrack more than two miles in length, or a convention center.
- 6) It increases the attendance and duration of an event at which the holder of an excursion and adjacent landsite permit provides free alcoholic beverages.
- 7) It provides that if an applicant for an alcoholic beverage permit for a restaurant in a municipal riverfront

development project already holds a three-way permit for the premises, the applicant is not eligible for the special permit.

8) It specifies the criteria that an applicant must demonstrate in applying for a special permit in a municipal riverfront development project.

9) It allows a supplemental retailer to sell alcoholic beverages on Sunday from 10 a.m. to 3 a.m.

10) It allows a beer, wine, or liquor wholesaler to obtain a deduction for the redevelopment or rehabilitation of real property in areas designated as Economic Revitalization Areas (ERA).

11) It exempts a licensed premises owned or operated by an educational institution of higher learning or an automobile race track from provisions imposing criminal or civil liability for the presence of a minor in a public place where alcoholic beverages are sold.

12) It repeals a statute that prohibits a corporation that does business in Indiana from enabling a nonresident of Indiana to control or acquire an interest in a beer wholesaler's permit.

13) It allows a liquor retailer or a package liquor store to provide samples of beer that do not exceed six ounces.

It also makes conforming amendments.

Effective Date: (Amended) Upon passage; July 1, 2004.

Explanation of State Expenditures: (Revised) *Alcohol and Tobacco Commission(ATC)*: While the provisions of the bill may require the ATC to evaluate and conform its current permitting procedure, it is not expected to have a significant impact on the Commission.

5, 11) These provisions could potentially cause a slight reduction in the number of court cases and penalties assessed against the affected permit holders. If there are fewer actions brought, court fee revenue would decrease. A portion of the court fees are deposited in the state General Fund. Additionally, depending on the number of potential violations, fine revenue to the state General Fund and the Common School Fund could be reduced. The maximum fine for a Class C infraction and Class C misdemeanor is \$500. The maximum fine for a Class B misdemeanor is \$1,000.

Explanation of State Revenues: (Revised) 5) This provision could cause a slight increase in the revenue received from the state excise tax on beer. Any increase is estimated to be minimal.

The \$0.115 per gallon beer excise tax is based on the number of gallons sold and is distributed to the following funds: state General Fund (\$0.04), the Post War Construction Fund (\$0.0475), the ATC Enforcement and Administration Fund (\$0.0075), and the Addiction Services Fund (\$0.02). The state retains 50% of the General Fund distribution of beer excise tax revenue. The remainder is distributed to cities and towns based on population.

There are currently 21 licensed microbreweries in the Indiana. A number of these breweries have attached restaurants and accompanying ATC permits that allow them to sell beer by the glass. None of the microbreweries are currently permitted to sell beer for carryout on Sunday

9) The bill allows consumers to purchase alcoholic beverages for on-premise consumption at bars, restaurants, and hotels that have a supplemental retailer permit on Sundays from 10 a.m. until 3 a.m. Monday.

While it is assumed that the majority of consumers purchase all the alcoholic beverages they desire to consume within the hours dictated by current law, it is possible that the added convenience and availability of alcohol sales on Sundays may encourage consumers to purchase more alcoholic beverages than they would have otherwise. An increase in the overall quantity of alcoholic beverages purchased would increase state revenue from the excise taxes assessed on alcoholic beverages. The extent to which consumers may make additional purchases above what would be purchased under current law is unknown.

Any impact on Sales Tax revenue is expected to be minimal since any additional purchases of alcohol would likely reduce consumer spending on other sales taxable items.

Under current law, restaurants, bars, and other establishments are generally limited to selling alcoholic beverages Monday through Saturday, from 7 a.m. until 3 a.m. the following day, unless they meet certain requirements and have obtained a supplemental permit issued by the Commission. There are approximately 4,050 establishments have a supplemental permit to serve alcoholic beverages on Sunday. Restaurants and bars with the permit may serve alcoholic beverages from noon on Sunday until 12:30 a.m. on Monday, while hotels with a permit may serve from 11:00 a.m. on Sunday until 12:30 a.m. on Monday.

Background on Alcoholic Beverage Excise Tax Revenue: Based on the January 12, 2004 State Revenue Forecast, excise taxes on alcoholic beverages are expected to generate \$36.1 M in FY 2005 and \$36.0 M in FY 2006. The excise taxes on alcoholic beverages are assessed on a per gallon basis and the taxes are typically collected at the wholesale level. The excise taxes collected on alcoholic beverages vary by product and by the fund to which the tax is dedicated. Revenue from alcoholic beverage excise taxes is distributed into the State General Fund, the Post War Construction Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

10) The state levies a one cent tax rate for State Fair and State Forestry. Any reduction in the assessed value base will reduce the property tax revenue for these two funds.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) 5,11) If fewer court actions are filed, local governments would receive less court fee revenue.

10) This bill removes the prohibition against beer, wine, and liquor wholesalers from receiving a property tax abatement for the redevelopment or rehabilitation of real property in areas designated as economic revitalization areas (ERA).

The Alcohol and Tobacco Commission (ATC) reports that it has issued permits for 26 wine wholesalers, 10 liquor wholesalers, and 46 beer wholesalers. However, data is unavailable relating to the potential future investment in real property by wholesalers in ERAs. If a wholesaler located in an ERA qualifies for the abatement and redevelops real property, the abatement would reduce any increase in the assessed value tax base and cause a shift of the property tax burden from the wholesaler receiving the exemption to all property taxpayers in the form of an increased tax rate. However, if the provision encourages wholesalers to redevelop and rehabilitate real property that would not have been improved absent this bill, the assessed value tax base will increase after the abatement period and potentially reduce the property tax burden of other taxpayers.

As an abated value is gradually placed on the tax rolls, part of the property tax burden is shifted from all taxpayers to the owners of the abated property in the form of a reduced tax rate. The designating bodies of the ERA may allow a wholesaler to receive an abatement for up to ten years.

Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the deduction amount applicable to that fund.

This bill applies to property taxes due and payable beginning January 1, 2005.

Background on Alcoholic Beverage Excise Tax Revenue: Fifty percent of the revenue from the excise tax on alcoholic beverages distributed to the state General Fund is set aside for state General Fund purposes and 50% is allocated to cities and towns based on population.

State Agencies Affected: Alcohol and Tobacco Commission; Department of Local Government Finance.

Local Agencies Affected: Civil taxing units and school districts with economic revitalization areas.

Information Sources: Alcohol and Tobacco Commission.

Fiscal Analyst: John Parkey, 317-232-9854.